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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/360,262    07/26/99    REDDING

B    DFG1004.5-US

IM22/0620

EXAMINER

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ART UNIT

PAPER NUMBER

1761

DATE MAILED:

06/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/360,262	REDDING ET AL.	
	Examiner	Art Unit	
	Drew E Becker	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Prosecution Application***

1. The request filed on April 27, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/360,262 is acceptable and a CPA has been established. An action on the CPA follows.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 10-11 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 10-11 recite "selected from the group including". It is not clear whether other materials can be "included" or not.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 1761

6. Claims 1, 3-4, 6-7, 9, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Redding Jr [Pat. No. 5,455,342].

Redding Jr teaches a method of treating polymers by dispersing the particulate polymer in a liquid (column 3, lines 3-11), applying an abrupt pressure change to the dispersion with a piston (column 3, lines 12-16), mechanical action (column 5, lines 50-66), recovering the treated polymers in a collection vessel (column 6, line 61), drying at 40°C (column 9, line 66), the pressure treatment occurring at ambient temperature which was commonly accepted to be 25°C (column 8, line 25), modifying properties of the polymers including solubility, thermal profile, and viscosity (column 7, lines 1-12), and the polymers including dietary fibers such as bark, carboxymethylcellulose, lignin, methylcellulose, proteins and other natural polymers listed in the Polymer Handbook (column 14, Table VI).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 5, 8-10, 12-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding Jr in view of The Polymer Handbook.

Redding Jr teaches the above mentioned concepts as well as operating the air piston at 60-90 psi (column 8, line 13). The Polymer Handbook listed cellulose as a natural

polymer (page 399). It would have been obvious to one of ordinary skill in the art to incorporate the cellulose of The Polymer Handbook into the invention Redding Jr since Redding Jr specifically includes all natural polymers listed by The Polymer Handbook (column 14, line 56), since The Polymer Handbook lists cellulose as a natural polymer (page 399), and since Redding Jr teaches the use of bark which essentially made up of cellulose. It would have been obvious to one of ordinary skill in the art to vary the treatment time of Redding Jr since this would have been dependent upon a multitude of factors such as the material treated, the size of the particulate, and the amount of particulate; and since this would have been done during the course of normal experimentation and optimization. It would have been obvious to one of ordinary skill in the art to vary the amount of particulate in Redding Jr since this would have been dependent upon a multitude of factors such as the material treated, the size of the particulate, and the pressure level; and since this would have been done during the course of normal experimentation and optimization.

9. Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding Jr as applied above, in view of Fennema [FOOD CHEMISTRY].

Redding Jr teaches the above mentioned concepts. Redding Jr does not teach the use of soy, wheat bran, oat, or oat hull. Fennema teaches that oat and barley brans are good sources of dietary fiber (page 218). It would have been obvious to one of ordinary skill in the art to include the oat bran of Fennema into the invention of Redding Jr since Redding Jr is directed to the treatment of natural polymers and since Fennema teaches that dietary fibers such as oat bran are natural polymers as well (page 218).

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-13 and 15-17 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker  
June 11, 2001

  
KEITH HENDRICKS  
PRIMARY EXAMINER